

Application No. 10/700,761
Amendment Dated February 19, 2008
Reply to Office Action of August 17, 2007

REMARKS

In the Office Action dated August 17, 2007, claims 1-3, 5-11 and 67-70 were examined with the result that all claims were rejected. The Examiner made the rejection final. In response, applicant has filed a Request for Continuing Examination and this Amendment wherein claim 1 has been amended. In view of the above amendments and following remarks, reconsideration of this application is requested.

Before turning to the rejections of record, applicant would like to briefly summarize the amendments made to the claims. First, the Examiner will see that claim 1 has been amended to incorporate the method of measuring the peel strength therein. Support for this amendment can be found in the specification as filed in paragraph 0063 at page 18 of the application as filed. Identifying the peel strength test in claim 1 now clearly distinguishes the difference between the peel strengths set forth by applicant in claim 1 and those set forth by Inoue et al U.S. 6,893,715, which is the primary reference utilized by the Examiner in rejecting the claims.

The Examiner will note that claim 1 has also been amended to revise the peel strength limitation itself from "1000g/inch" to "600g/inch." Support for this amendment can be found in the specification as filed in paragraph 0043 at page 10 of the application as filed. Modifying this limitation to a lower peel strength moves applicant clearly further away from what is disclosed in the Inoue et al '715 reference.

Finally, claim 1 has been amended to state that the autoadhesive surface formed between the first cling film layer and the second cling film layer is not only "peelable," but is also "refastenable." Support for this amendment can be found in the specification as filed in paragraph 0043 at page 10 of the application as filed, particularly the last line on page 10. Again, calling for a "refastenable" laminate structure distinguishes applicant from the heat sealed laminate structure of Inoue et al '715.

In the Office Action, claims 1, 2, 7, 8 and 67 were rejected under 35 U.S.C. §103(a) as obvious over Inoue et al U.S. 6,893,715. In addition, claims 5 and 6 were rejected under 35 U.S.C. §103(a) as being unpatentable over Inoue et al as applied to

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claim 1 and further in view of Dobreski et al U.S. 4,820,589 for its disclosure relating to polyolefins and acrylic or vinyl acetate. Claims 3, 10 and 11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Inoue et al as applied to claim 1 and further in view of Tuman et al U.S. 2001/0018110 for its disclosure of the breathable, non-woven base layer. Claims 68 and 69 were rejected under 35 U.S.C. §103(a) as being unpatentable over Inoue et al as applied and further in view of Mascarenhas et al U.S. 5,888,615 for its disclosure relating to polyolefins, nylon and polyethylene methacrylic acid. Finally, claim 70 was rejected under 35 U.S.C. §103(a) as being unpatentable over Inoue et al as applied and further in view of Velazquez et al U.S. 5,614,297 for its disclosure relating to polyvinyl chlorides. In response, applicant believes each of these rejections are primarily based upon Inoue et al '715 and therefore distinguishing over Inoue et al '715 will overcome each and all of these rejections. Accordingly, applicant has the following remarks relating to Inoue et al '715.

Turning to the Inoue et al cited reference, the composition disclosed therein is used primarily as a cap material which is heat sealed to a container. In other words, the cap is made of a material heat sealed to a surface layer of a cup or container for holding food products such as instant noodles, pudding, yogurt and the like. Inoue et al is attempting to provide a material capable of forming a sealant film which exhibits high sealing properties when heated to prevent the food from spilling out yet provide easy peeling properties to enable a consumer to easily peel the cap material away by hand. In other words, Inoue et al is attempting to provide a composition that even though is heat sealed to a surface has a balance between two desired properties, i.e. sealing strength and easy peel strength.

In order to accomplish this, Inoue et al discloses compositions that have peel strengths measured in N/15mm (N =Newtons) and is referred to in Inoue et al's specification as the "initial sealing strength," but as described therein is the peel strength of the cap material. See the test methods set forth at column 12, lines 33-41, and the data listed for Example 1-A in Table 1-A as well as Examples 1-B and 2-B found in Table 1-

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B. The peel strength set forth for Example 1-A is 10.8N/15mm. The peel strength (sealing strength) for Example 1-B is 19.6N/15mm and the peel strength for Example 2-B is 24.5N/15mm. When one converts N/15mm to g/inch (which is utilized by applicant and is set forth in claim 1), one finds that 10.8N/15mm is equivalent to 1,829g/inch, while 19.6N/15mm is equivalent to 3,319g/inch, and 24.5N/15mm is equivalent to 4,216g/inch. Thus, the Examiner can see the "initial sealing strength" or peel strength of the sealant composition of Inoue et al is almost three times the upper limit of 600g/inch now required in claim 1 by applicant. In other words, it is more difficult to peel the heat sealed cap material disclosed in Inoue et al from the cup or container than it is to peel applicant's composition when using a fastening tab on a disposable article, as claimed by applicant.

It should be noted by the Examiner that there is nothing in Inoue et al that discusses autoadhesive surfaces, a fastening system, a cling-to-cling fastening system, or especially a refastenable cling-to-cling fastening system, as disclosed and claimed by applicant. Inoue et al is directed toward a composition that is heat sealed to provide a container for packaging items such as food products. It is a one-time peel away film, i.e. once removed or peeled from the container it cannot be reused or refastened to the top of the container. In contrast, applicant is claiming a cling or autoadhesive surface which has relatively low peel strength, but relatively high shear strength for use in a refastenable fastening system for items such as disposable diapers, feminine napkins, surgical drapes, hospital gowns, hospital pads, tape and the like. There is nothing in Inoue et al which would suggest to one skilled in the art that a composition that is heat sealed to provide high initial sealing strength would also be applicable to goods such as those which require a refastenable fastening system containing high shear strength properties.

In the Office Action, claims 1-3, 5-11 and 67-70 were provisionally rejected on the grounds of non-statutory obviousness type double patenting as being unpatentable over claims 48-90 of co-pending application no. 10/981,046 in view of Mann et al U.S. 5,085,655. In response, applicant notes that it will file an appropriate Terminal

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Disclaimer to obviate this double patenting rejection upon the indication of allowable subject matter.

Applicant would also like to bring to the attention of the Examiner a third co-pending patent application which is related to the current application serial no.

10/700,761 as well as the co-pending application no. 10/981,046 cited above by the Examiner. That third application is serial no 10/867,438 filed June 14, 2004 which discloses and claims related subject matter. Application serial no. 10/867,438 also discloses and claims various features of a cling film laminate structure.

An effort has been made to place this application in condition for allowance and such action is earnestly requested.

Respectfully submitted,

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